



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA–R08–OAR–2015-0617; FRL-9969-04-Region 8]**

### **Approval and Promulgation of Air Quality Implementation Plans; State of Utah; General Burning Rule Revisions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Utah on January 28, 2013, and July 8, 2015. The submittals request SIP revisions to the State’s General Burning rule; a repeal and reenactment of the General Burning rule with changes to applicability, timing and duration of burning windows, and an amendment to exempt Native American ceremonial burning during restricted burning days.

**DATES:** This rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2015-0617. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>,

or please contact the person identified in the “For Further Information Contact” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Chris Dresser, Air Program, U.S.

Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6385, [dresser.chris@epa.gov](mailto:dresser.chris@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In our notice of proposed rulemaking published on July 13, 2017 (82 FR 32282), the EPA proposed to approve Utah’s January 28, 2013 SIP submission, which repeals and reenacts the General Burning provisions in R307-202 with several amendments (discussed in the proposed rulemaking). Additionally, the EPA proposed approval of Utah’s July 8, 2015 revisions, which exempts ceremonial burning conducted by a “Native American spiritual advisor” during restricted burn days. In this rulemaking, we are taking final action on both SIP submittals. The reasons for our approval are provided in detail in the proposed rule.

**II. Response to Comments**

We received no comments on the proposed rule.

**III. Final Action**

For the reasons expressed in the proposed rule, the EPA is approving revisions to Sections in R307-202 of the State’s General Burning provisions from the January 28, 2013 and July 8, 2015 submittals.

**IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Utah General Burning provisions described in the amendments set forth to 40 CFR part 52 below. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 8 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>1</sup>

## **V. Statutory and Executive Orders Review**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this final action merely approves some state law as meeting federal requirements; this final action does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

- Is not a "significant regulatory action" subject to review by the Office of Management and

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

Budget under Executive Order 12866 (58 FR 51735, Oct. 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, Aug. 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 USC 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, Feb. 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of

Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 et seq.

Dated: September 25, 2017.

Suzanne J. Bohan,  
Acting Regional Administrator,  
Region 8.

40 CFR part 52 is amended to read as follows:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart TT--Utah**

2. In §52.2320, the table in paragraph (c) is amended by revising the entry “R307-202” to read as follows:

**§52.2320 Identification of plan.**

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(c) \* \* \*

<b>Rule No.</b>	<b>Rule title</b>	<b>State effective date</b>	<b>Final rule citation, date</b>	<b>Comments</b>
* * * * *				
<b>R307-202. Emission Standards: General Burning</b>				
R307-202	Emission Standards: General Burning	10/6/2014	<b>insert Federal Register citation], [insert date of publication in the Federal Register]</b>	
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[FR Doc. 2017-21612 Filed: 10/6/2017 8:45 am; Publication Date: 10/10/2017]